

FAX

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REMARKS: *Urgent* *For your review* *Reply ASAP* *Please Comment*

Charlie:

Attached is the information regarding FDA issues. Any support you can lend relative to discussing Hess's position with Judy Wilkenfeld would be greatly appreciated.

Nick

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INFORMATION FOR ACCOUNTS INTERESTED IN "STORE-IN-A-STORE"

Although the Judge in Greensboro has put a stay on any of the proposed FDA regulations related to restricted access and denied any jurisdiction over advertising and promotion there is still the possibility that the FDA will eventually gain regulatory authority over access (self-service versus non-self-service, etc.) even though 8/28/97 is no longer the implementation date.

Based on the potential that this authority could at some point become enacted due to a lifting of "the stay" or appeals that are heard we still feel it worth your time to speak your opinion on why you need to have the ability to compete with a store-in-a-store format.

- Proposed FDA regulations (that are on hold via a "stay") permits self-service displays "in facilities where the retailer insures that no person younger than 18 years of age is present, or permitted to enter, at any time."
- The FDA has indicated that it did not intend for "store within a store" to be allowed by the regulations as written, but that it will accept additional information and/or opinions on the "store-in-a-store" concept.
- The FDA may be interested in the following information:
 - a) Do you currently have a "store-in-a-store"?
 - b) If so, what does it look like? Where is it located? How is departmentalization achieved (e.g. floor to ceiling walls versus panels that don't reach ceiling?)
 - c) How are you proposing to limit access to persons under 18 in your "store-in-a-store" (e.g. attendant at door; locked door; opaque windows and doors, etc.)?

If you would like to express your views on the "store-in-a-store" concept you can call your trade association or Judy Wilkenfeld at the FDA at (301) 827-0933 (phone); (301) 443-5169 (fax). If Ms. Wilkenfeld is not available, you can ask to be transferred to Mr. Mitch Zeller.

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